THE New Oath of Allegiance JUSTIFIED, FROM THE Original Constitution OF THE English Monarchy.

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THE New OATH of Allegiance Justified, &c.

IT is a great Misfortune, that we of the Church of *England*, who were so unanimous in blaming the illegal Proceedings of the late Reign, and so universally then convinced, that all of us were design'd to destruction, should now be so divided about our Obligations to our Deliverers: If that Party, who then did, and now do, wish the Subversion of our Church, do not cause these Divisions, I am sure they rejoice at them, and take Courage from them to hope for new Advantages against us: And it is very observable in the Conduct of these *Romanists*, that while they had Power, none were more caressed by them, than the most violent *Dissenters*, and none more hated by them than those high and resolute Men of the Church of *England*, who would not truckle to their Illegal Proceedings; some of which being at present so unhappy, as to be under Scruples and Difficulties about these New Oaths: The *Romanists* now make all their Court to these, and magnify them whom they so lately vilified; not that they love their Persons or Principles better than they

did in former Times, but only they hope thus to encreaſe that Faction, and ſow that fatal Diſcord among us, which may once more bring us under their Power. But while the Enemies of this Church ſeek to divide us, it concerns all its true Friends to labour for Unity and Peace. The far greateſt number of our Communion will certainly promiſe and pay Allegiance to the preſent Government, and among them are many who are very Eminent for their Learning and Knowledge, as well as for their Piety and Integrity; ſo that, though there be alſo ſome ſuch among the ſmall Number that diſſent; yet if Example and Authority be urged, the Advantage lies on the ſide of thoſe who do ſubmit; and the leſſer number ought to endeavour to bring their Minds to agree with their Brethren in this Point, with whom they do agree in all other Points.

But when we have uſed all imaginable Arguments for Swearing Allegiance to the Preſent Government, taken from the Example of others, the Intereſt of this Church, and the Reformed Religion, throughout *Europe*, the ill uſe made of this Refuſal by our Adverſaries on both ſides, and the danger to the preſent Government; if the Example of ſome ſhould be a Precedent to many, All theſe are fully Anſwered, by ſaying: *If it be ſinful and unlawful in it ſelf to take theſe New Oaths, we muſt not do it, either to gain any Advantage, or to avoid any Temporal Evil.* Now though this Conſequence be rightly deduced from the Premiſes, yet it is enough to make any man, of tolerable humility, and who is not extremely fond of his own Opinion, doubt that the Premiſes are not certain; becauſe,

because, whatever is sinful and unlawful in it self, is generally evident to all wise and good Men; but when so many men of great Learning, of known Integrity, and strictly Conscientious in all other things, are clearly convinced, that the taking these Oaths is both just and lawful; we must grant, that it is a Disputable Case, and at least, a Probable Opinion, that we may take them; which should dispose all that dissent, to lay aside all Pride and Prejudice, and without Passion or Partiality, examin the Reasons which are given by those who are convinced, That it is lawful to Swear Allegiance to the present Powers.

I know there are several Reasons given by several Men, such as Abdication, Desertion, Conquest, *&c.* but they all terminate in this, to prove our Obligation from our former Oath of Allegiance to King *James*, is void and ceased: And after many Methods of proving this (which is the only Point that any Protestant can need any Satisfaction in) I think the Nullity of that former Oath may be made out, by that King's divesting himself of all Right to Govern us, and forfeiting his Claim to our Allegiance; and I shall prove that: First, by Considering the Nature of our Government; and Secondly, by Examining the Facts of the late King; the former of which, will shew, That a King of *England* may forfeit his Right to to Govern, and, by Consequence, his Title to our Allegiance: The Later will prove, That the Late King hath done all those Facts which made this Forfeiture, and set us free from our former Allegiance. If we consider the Nature of our Government, it will prove;

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First, That a King of *England* may forfeit his Right to it, becauſe it is both a mixt and a limited Monarchy, and therefore if the limits be notoriouſly tranſgreſſed, there are other Eſtates who may take the forfeiture, and own the Right to be (as it is an Hereditary Monarchy) in the next Heir: But ſome perhaps will deny the conſequence and ſay, that though it be both, or either of theſe, it is not lyable to be forfeited. I ſhall therefore firſt prove the premiſſes, and then ſhew the conſequence is fairly deduced from them.

First, That our Monarchy is both mixt and limited, appears by conſidering its true Original, and that muſt be known, not by empty ſpeculation, but by Hiſtory, and matter of Fact: For ſome men have ſtrangely intangled this Point, by dreaming of a deſcent from *Adam*, and a Patriarchal Power; but though this might be true for a few of the firſt Ages, it is not applicable to any Monarchy that is now extant in the world, and leaſt of all to the Monarchies in this part of Europe, which was Conquered by the *Goths*, and other *Northern* Nations; and therefore thoſe Captains (who in every Country made the Conqueſt, and gained their Power and regal Dignity, by the help both of their under Offices and common Souldiers) gave them a ſhare with them in the Soveraign Power; and after they were ſetled, granted alſo to the people they had conquered, many of their antient Rights, to oblige them peaceably to ſubmit to them: Now if they had come in by the right of Primogeniture, and the pretended Patriarchal Power; they would have had all the rights of a Father, and none of their Subjects (who are in place of Children) could have any

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ſhare with them in governing their great Family, the Kingdom; they muſt have had all the Soveraignty in themſelves, and could have had no limits ſet to their Authority, by thoſe who were under them. But ſince the Soveraignty is divided, and he who hath the chief part of it, is limited in his power in all theſe parts of *Europe*, therefore it muſt be confeſſed that theſe Governments were not Originally Patriarchal, nor pure abſolute and unlimited Monarchies, which will be very clear if we look upon the People from whence our *Engliſh* are deſcended, and from whom our Conſtitution was at firſt borrowed. The old *Germans*, our Anceſtors, were, as Mr. *Sherringham* fully proves, a branch of the Victorious *Goths* (a). Now they were not only obliged by the uſe they made of their ſouldiers in their expeditions to ſet up mixt and limited Monarchies in their new Conqueſts (as we juſt now noted) but were led to do this by the uſages of their own Country. The *Germans*, as *Tacitus* ſaith, had Kings; *but they neither had an unlimited nor abſolute Power*: (b) *The Prince conſults of leſſer Affairs, but all of them treat of great Matters, yet ſo as the King conſiders before-hand of thoſe things which are to be determined by the People*, (c) *that is, in their Councils*; *where* (ſaith he) *if the King or other eminent Perſon ſpeak, they gain their Point by Perſwading, not by Commanding* (d). So *Grotius* tells us, the *Gothic* Laws did not, as the *Roman*, depend upon the Princes Will, who is but one man, and might eaſily be deceived, or change his mind; but were made by the Prince, and ſuch as were choſen out of the people; and being well weighed, have three advantages. 1. *That nothing noxious to the Publick, can lye hid among*

(a) Sheringham de Anglor. *Gent.* Origine.

(b) Tacit. de Mor. Germ. pag. 607.

(c) Idem ibid. pag. 617.

(d) Idem ibid. pag. 619.

having so many Monitors. 2. That they were freely obeyed, being made by common Consent. 3. That they were never, or not without great Cause altered (e). And he there cites *Adam Bremensis*, shewing, *That the old* Danes *and* Swedes *had Kings of Antient stock, but their Power depended on the Peoples Consent; for what they agreed to in Common-Council, he was obliged to Confirm* (f). So also it was among the antient *Franks* and *Gauls*, *Ambiorix* King of the *Eburones*, in *Julius Cæsars* time, saith, *His Kingdom was so constituted, that the People had power over him, as well as he power over them* (g). And one of the Emperors of the *French* Line, after *Charles* the Great, tells his Nobles, *That though the Supream Government seemed to be placed in his Person, yet it was so ordered by Divine and Human Laws, that every one of them in his Place and Degree had a share, which was well known in this Government of his* (h). It would be endless to enumerate all the instances of this kind abroad; and these suffice, to shew, that those who Conquered *England* (the *Saxons*, *Danes*, and *French*) and so formed our Government here, set up indeed an Hereditary Monarchy, but such as was both mixt and limited. Every own knows the *Saxon* Kings did nothing of moment without their *Micel-gemot*, or great Council of Bishops, Barons, and Faithful people; in these they made all their Laws, and with the advice of these, they repealed or amended them. The Laws of *Edward* the Confessor declare, *That the King, who is Gods Vice-gerent, is appointed for this; That he may Rule his Earthly Kingdom, and the Lords People, and above all, Holy Church, and defend them from injuries, and utterly destroy evil doers out of them; which if he doth not do, neither*

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(e) *Grotii* proleg. ad hist. de rebus Gothicis. *pag.* 65.

(f) *Adam Brem.* de situ Dan. ib. *pag.* 102.

(g) *Cæsar* de Bell. Gall. lib. 5.

(h) Capitul. Tom. 1. *l.* 2. § 3. *pag.* 73.

ought the name of a King to remain to him; for (as Pope *John* ſaith) *he loſes the name of a King* (i). The *Norman* Conqueror was compelled, for his own ſafety, to renew theſe Laws of *Edward* the Confeſſor, and to promiſe to rule by them; and when his Succeſſors infringed them, the Nobles and People of *England* demanded theſe as their Birth-right, and putting them into a *Magna Charta*, by force of Arms, obliged their Kings to confirm them: Yea, even in *Edw.* the Firſt's time, *Polydor*, *Virgil* relates, *That the People and Barons had taken Arms for the defence of their Rights, and required a Free-Parliament, to which with a ſafe conduct the Earls of* Hereford *and* Arundal *came, and in the Peoples name boldly demanded:* 1ſt. *That the old Laws might be reſtored.* 2d. *That no Taxes ſhould be laid on the People of* England, *but by conſent of Parliament.* 3. *That neither they, nor their adherents, ſhould be damnified for taking Arms for the Liberties of the people. All which the Parliament did agree to* (k).

(i) Leg. *Edw.* 15. Spelm. Concil. Tom. 1. *pag.* 622.

(k) *Polyd. Virgil* lib. 17. *pag.* 340.

I might add many other evidences from our ancient Lawyers, to prove, that *England* hath been look'd on always as a mixt and limited Monarchy, and the People of it as a Free People, having divers Rights, which their Kings could not, nor ought not, to take from them. That of *Bracton* is plain; *The King hath for his Superiours, God, and the Law, by which he is made King, alſo his Court*, viz. *his Counts and Barons:* And that of the Mirror of Juſtice, *The firſt and ſoveraign abuſion of the Law, is for the King to be above the Law, whereas he ought to be ſubject to it, as is contained in his Oath*, pag. 282. Yea, the beſt of our Kings, *Charles* the Martyr, hath declared, *That this Kingdom is mixt of Monarchical, Ariſtocratical, and Democratical*

mocratical Government; and that so wisely, that we have all the conveniencies, and none of the inconveniencies of any of those forms taken single (1): So that from the true Original of our Goverment, it doth appear to be both mixt and limited. And to prove both, still more fully:

(1) Answer to the 19. Propos. pag. 56.

First, Let it be noted, our Government must be mixt, because the Sole supream power is not vested in the King alone, but in him and some others; there being many Acts of Soveraignty which he cannot alone perform; such as making or repealing Laws, concerning our Rights; raising of Mony with respect to our Estates; and condemning a Criminal, as to our lives: These he cannot do without the Consent of a Parliament for the two first, and the Verdict of the Twelve Jurors as to the later; therefore neither are our Rights, our Fortunes, or our Lives in his Power alone: The other Estates have their share both in making Laws, & in Executing them, which is the grand security that *English* men have for their Liberties, Properties, & Lives; and therefore they ought to be very Jealous of it, and careful that no Prince do alter this Form, and turn it into an Absolute and Arbitrary Monarchy; because that exposes their All, to the dangerous humours, and extravagant passions of one fallible, and perhaps cruel, covetous, and ambitious man.

Secondly, We also observe, this Monarchy is limited; and this, not only by joyning others with the King, in exercising divers Acts of Soveraignty; but by admitting him to be King, upon certain conditious, which he tacitly agrees to, when he enters on the Government; being an unalterable burden annext to

to the Inheritance of the *Engliſh* Crown, and which he openly ſwears to, by a Solemn Compact made with him at his Coronation; which Oath binds the King, as all promiſſory Oaths do, not only to God, but alſo to the People to whom it is made; even as our Oaths of Allegiance, which we take to a King, ſo admitted, bind us not only to God, but alſo to our Prince; and doubtleſs, there being a formal ſtipulation on his part, his Oath is as much intended for our ſecurity of his performing one part of the Compact, as ours is his ſecurity for our keeping the other; and to ſuppoſe any other, is to declare, that God is mocked, Sacraments are prophaned, and the People abuſed, by the great ſolemnity of a Coronation Oath. 'Tis true, ſome of our Princes have exerciſed Regal power, before there could be opportunity to take this Oath; but the known burdens always deſcending with every Inheritance; the Heir, who enters on any Eſtate, is ſuppoſed willing to have it on thoſe terms his Anceſtors enjoyed it, although he have not opportunity juſt then to make a ſolemn declaration of this: And as we owe an Allegiance to our King, before we actually take that Oath, ſo certainly he owes us our Liberties and Rights before his actual Coronation: But that theſe are the very conditions upon which he is admitted at firſt to Govern, is plain, becauſe after he hath ruled ſome months, the people are asked at the Coronation, *If they will have that man for their King*; and (having truſted the Biſhop to declare their conditions for them on which they accept him) they then declare, *They will have him for their King*; after which, follows the Compact and Conditions themſelves, which are formally pro-

posed to the Prince, and severally consented to by him; and this consent is confirmed by Oath, which Oath is not a meer Ceremony, as the Court Parasites pretend; but a Sacred Bond, as antient as any memory or writings do extend in our *Northern* Governments; where the Kings being limited, did, at their Inauguration, swear to these limitations, for the security of their People: We have yet extant some of these Oaths, one of which, at present may suffice for example sake: *Lewis* the Bald, *An.* 877. at his Coronation, swears, *He will keep the Laws and Statutes unto his People, committed to his Government by the Divine Mercy, which were made by the common-Council of his Leiges* (m): And such Oaths have been made here, and in all other *Northern* Nations from times immemorial: Nor did the People think them Complements, because they charged their Kings afterwards with the obligation of their Coronation Oath. So did the Abbot and Convent of St. *Albans*, when *Sim. Passelow* came to them from King *Hen.* 3. to demand money, and told them, (as some lately talked) that, *All they had, was the King's.* They Replyed: *It was true, all was the Princes to defend, not to dissipate; and to this Defence he was Sworn in his Coronation-Oath, and at other times* (n). Thus also in the Statute of Provisors, the Parliament declares, That *Edward the Third*, their King, was bound *by Oath, with the Accord of his People in Parliament, to make Remedy by Law, for their Grievances.* And there being an antient Statute unrepeal'd, against this particular Grievance; they say, *He is bound by his Oath to cause the same to be kept, as the Law of*

(m) Capit. *Franc.* Tom. 2. *pag.* 274.

(n) Math. Par. *An.* 1258. *pag.* 967.

of this Realm (o): Which makes it to be very clear, That of old, this Coronation-Oath was thought to bind the King to observe the Laws; and to be their Security, that he should do as he there promised. And to put this out of all doubt, our Allegiance seems evidently grounded on the supposal, That the King will perform his part of the Stipulation; for Allegiance (as the Learned in our antient Laws do define it) *Is a very strict Bond between the Subject and the King, binding them mutually to one another, obliging him to Protect and Govern them justly; and them to pay him Tribute and due Subjection; and therefore, both they and he have the Title of Leiges; the King being called, our Leige-Lord; the Subjects, his Leige-People, and Leige-Men* (p). 'Tis evident, the old Customair of *Normandy* took it to be an Obligation upon the King, as well as the People; and therefore, it saies, *Allegiance or Legality the Prince ought to have from all his Subjects, by which they are bound to Assist him with their Bodies and Counsel against all mortal Men, and to be blameless in all things, as to him, not encouraging his Enemies in any thing: And he is bound to Rule, Protect, and Defend them, and to treat them according to the Rights, Laws, and Customs of their Country* (q). So that here are Conditions on both sides, and an equal Obligation, which is the true formal Notion of a Compact, in which, both Parties are bound to make good their several Parts of the Stipulation: And of old, this was expressed in the Forms of many Oaths of Allegiance; as in the *French* Empire, the Subject was Sworn, *To be Faithful to* C. *&c. from that day forward, without Fraud or Malice, as far as concerned his part toward the King's Part, and to the Honour of his Kingdom,*

(o) Stat. Provisors, *An.* 25. *Ed.* 3. *p.* 158.

(p) Splem. Gloss. Verb. Ligiant.

(q) Customair de *Norman.* *c.* 43. apud Spelm. *ut supr.*

Kingdom, in such wise, as a man ought, by right, to be to his Lord (r) ——— *Or as far as a Frank by Law ought to be to his King* (s). And from this *French* Empire, we in *England*, borrowed most of our antient Forms, which shews the Allegiance was limited by Right, and Law; and that neither the King's Power, nor the Subject's Duty, was absolute, but both of them bounded by such Conditions as the Law had made between them: And thus we have proved, that this Monarchy, like all others in these Parts of the World, is not only mixt, but limited also.

(r) *An.* Dom. 802. Capit. Tom. 1. Pag. 377.

(s) *An.* Dom. 854. Capit. Tom. 2. p. 71.

In the next place, we are to make out the Consequence, which we have drawn from these Premises, *viz.* That being a mixt and limited Government, It is forfeitable, and may actually be forfeited: For in all Compacts, there is a mutual Obligation; and if one Party do break all those Conditions on his side, which were the Motives to the other Party to enter into that Compact with him; the other Party, in that case, must be at liberty from the Obligations to perform the Conditions on his part; it being unreasonable to suppose one of the Parties to be fast, when the other is loose; and it was to no purpose to make any Conditions in the Stipulation, or bind them by Oaths, if either Party might vacate them at their pleasure; such a Compact is a meer Sham and Mockery, and hath not the nature of a Contract: Besides, if it be granted, that our *English* Government is mixt and limited, as hath been proved, then it will follow, that it is forfeitable; because otherwise, in some Cases, it will be impossible for this Government to be kept upon its Antient Basis. Now,

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every Government muſt be ſuppoſed to have Power to preſerve it ſelf in ſuch manner, as the Laws hath ſetled it; otherwiſe, that Settlement were as vain, as it is inſignificant and precarious; but if, when a King will change this Government, and make it Arbitrary, and may not be hindred; then his Subjects have no ſecurity, either by his Oaths, or the Laws, for their Rights and Liberties; and if he be wilfully bent to do this by force, nothing can prevent him, if the Subjects may not defend their Rights againſt this illegal Violence: And in ſome Caſes, nothing leſs than taking the Forfeiture, can ſecure them; becauſe, ſo long as ſuch a Prince hath Power, it is evident he will uſe it to ſubvert their Liberties: And ſurely their Allegiance cannot hinder them from taking this Power from him, becauſe that was due to him, only upon thoſe Conditions, to which he was Sworn; their Motive to Swear it, was his Oath to protect their Rights; and therefore it cannot oblige them to aſſiſt, no, nor to permit him to take them away: Nay, the Right he had to our Allegiance, was founded upon his Promiſe to Govern us by Law, and to protect us; but, if, inſtead of this, he attempt to Rule arbitrarily, and overturn all the Laws, and ſeek to deſtroy us; he certainly by theſe Acts deveſts himſelf of his Claim to our Allegiance; and we are by theſe Acts of his, ſet at Liberty from that Bond. I confeſs, it is not any ſingle Act of Miſ-government, nor of Injuſtice to a few, will, or can forfeit a Princes Right; that ſuppoſition would make Governours unſafe, and Civil Wars too frequent: But it muſt be a manifeſt Attempt to change the nature of the Government,

vernment, a Breach of the whole Compact, or an evident Endeavour to break it, which only can juſtifie the other Eſtates of this mixt Monarchy, in taking the Forfeiture; and in ſuch Caſes alone it is juſt, the Forfeiture ſhould be adjudged to be made, when it is the only way to keep the Government upon its old Foundation: So again, if ſingle Perſons, or many together, be injur'd by the Prince, they are obliged to ſuffer quietly, rather than diſturb the publick Peace; and in this caſe Paſſive Obedience is a Chriſtian Duty, and is neceſſary to the quiet of every Nation, ſince the beſt Governours in the world may by Miſtake injure ſome few; and if they do ſo, that doth not break the Compact; becauſe all the People collectively, or repreſentatively, were but one Party in the Stipulation; and therefore, thoſe Acts, by which a King muſt forfeit, are ſuch as are likely to take away the Rights of the whole People, or aim at changing the form of the Government, and ſubverting the Laws: In ſuch caſe, Paſſive Obedience is not the Duty of a Community, who have Rights and Liberties ſecured by Law; and for the whole People to ſtand by, ſilent, and ſee this done, is the greateſt folly, and the higheſt treachery to their Country, and their Poſterity. It hath been always laid down for a Maxim, *That Chriſtianity doth not ſtrip us of any Civil rights*; but if Non-reſiſtance, and Paſſive-obedience, be not thus explained, they ſtrip us of all our Rights at once, and oblige us to ſacrifice them all to the luſt of an impetuous Tyrant; who (when once he makes theſe attempts) hath deveſted himſelf of all his Right to be our King, by renouncing all the limitations expreſſed

preſſed in that Contract he made with us. They may as well prove, that the Fifth Commandment obliges a Son to give back to his Father the Poſſeſſion of that Eſtate, which was legally ſetled upon him at his Marriage, as from the Precepts of Subjection, and Submiſſion, to infer ſuch wild Concluſions. At this rate, our Chriſtianity would make us uncapable of taking any Legal Securities from our Governours; and, notwithſtanding all our Acts of Parliament and Laws, and our Kings Promiſes and Oath to keep them, we muſt, whenever he pleaſeth, be made as very Slaves as any in *Turkey*: Nor can any man prove our Condition to be better than theirs, if we enjoy all our Rights at the Kings Will and Pleaſure, and be bound in Conſcience, to part with them, if he require it.

But it will be asked, Who ſhall take this Forfeiture, ſuppoſing it be made, ſince the King hath no Superiour but GOD? I Anſwer with *Bracton*, his Court of Barons, and great Council, who ſhare with him in the Soveraignty, and repreſent the whole Nation, with whom the Compact is made: And our Adverſaries grant, That if the Royal Family ſhould be totally extinct, Theſe muſt have power to fix the Government on a new Perſon; and therefore, *a fortiori*, they may declare the Compact broken, and the Throne void; when the Perſon, in poſſeſſion, hath really broken it; and by ſo doing, deveſted himſelf of his Legal Right to Govern: I might urge Precedents for this, our Chronicles affording divers before the Conquerours time, and ſince: But I ſhall rather argue from the neceſſity of ſuppoſing ſome Power in every Government, to preſerve it ſelf; and in

a mixt Monarchy, if one of the Eſtates will tranſgreſs all its Limits, and ſwallow up the other Two, they muſt then have a Right to prevent this intollerable Miſchief to the Community; and where nothing leſs can ſecure the Publick, than taking the Forfeiture; there they may do it, yea, muſt do it, or the Legal Government would certainly be diſſolved.

Perhaps, it will be Objected, That this is too hard a Sentence, and being not expreſſed in the Contract, (*viz.* That the King ſhould forfeit, if he did not Govern by Law) it ought not to be inflicted. I Reply; The Sentence is very equitable for him who will not take the Burden with the Inheritance, to be denyed the Inheritance it ſelf: Even as Copy-Hold Tenants may juſtly refuſe to pay, even thoſe Rents and Services they owe to their Lord, if he attempt to alter their Tenure, and turn it into Tenancy at Will, and a Free-hold Eſtate: And though the thing be not expreſſed in Words in the Coronation-Oath, becauſe odious Clauſes are generally left out in all Covenants; yet it is neceſſarily ſuppoſed in the very nature of the Compact; as Divorce, in caſe of Adultery, or Attempt of Life is not expreſſed in the Marriage Contract; yet, when the Caſe happens, the inflicting it is juſt, becauſe ſuch Practices are as inconſiſtent with the ends of Marriage, as a Kings attempting to ſubvert the Laws, and alter the Government, is with the ends of Government, eſpecially, in a mixt and limited Monarchy. Again, I cannot ſee where the Severity or Injuſtice of taking this Forfeiture, lyes; for the King loſes no more by breaking the whole Contract, than he got by making it, that is, his Power

wer to Rule, ſo long as no Violence is done to his Perſon, or Injury to his Life; for he had his Life before this Contract was made, and ſo doth not forfeit that by tranſgreſſing it; and if he be only declared deveſted of his Authority, becauſe he will not uſe it legally, the Forfeiture is but an equal Puniſhment to the great Crime of uſing his Power ſo very ill. And this Penalty is the more equitable in a Hereditary Monarchy (as we freely grant this to be) becauſe none can ſuffer by it, but the offending Perſon; he having given full Proof, that he will not Govern according to the Original Conſtitution, is laid aſide, and his next Rightful Succeſſor comes in of courſe: He forfeits only for himſelf, as in caſe of an antiently Entailed Eſtate, where the Poſſeſſor is only Tenant for Life: But his Heir, who will Rule by Law, and willingly takes on him the Government, with all its Burdens, immediately takes place: So that the People are not hurt, nor the Monarchy altered, nor the Succeſſor injured; the Penalty reaches no farther than the Faulty Perſon, and meddles not with him, neither in any other but his Political Capacity, of which he hath deveſted himſelf: But after this, to take away his Life, (as the Rebels did in 48. even when the Forfeiture was but falſly pretended to be made) were to puniſh the ſame Fault twice, and to take away that which no King can forfeit to his People. To conlude this Point; A right underſtanding of the nature of this Hereditary, mixt, and limited Monarchy, leaves the King, indeed, under a poſſibility of forfeiting his own perſonal Right to Govern, which will ſuffice to keep him from

breaking the whole Compact with his People, or ſecure his Succeſſors and Subjects Rights, and keep our Monarchy on its own Baſis, if he do attempt ſo ill a thing: And the right ſtating this Compact, as made, not with every man ſingle, but with the whole Community; will alſo prevent raiſing Rebellions upon ſingle Injuries, or upon ſuch Miſ-government, as doth not aim at the Ruine of the Community; nor altering the Frame of the Government it ſelf: And at the worſt which can happen, it leaves not Subjects any power to Murder or Hurt the Perſon of their King; which, if it were well obſerved, would alwayes keep our Excellent Conſtitution in a due poiſe between Prerogative and Liberty, making us all peaceable and happy, and our King as Great as he ought to be: And this ſeems to be what our Anceſtors amied at in their prudent framing this Government; to keep us equally clear from the Rocks of Tyranny, and Rebellion; neither of which can happen here, ſo long as both King and People ſtick to the Original Conſtitution, and are content with their own ſhares.

I know nothing further can be Objected againſt this, but only ſome late Acts of Parliament made after the Reſtauration of King *Charles* the Second; One of which declares, *That by the Antient Fundamental Law of this Realm, neither the Lords nor Commons ſingly, nor together, &c. have any Coercive Power over the Perſon of the King* (t). Another obliges us to declare, we do believe, *It is not Lawful to take up Arms againſt the King, or thoſe Commiſſionated by him, upon any pretence whatever* (u). To which I Reply; *Firſt*, That the occaſion

(t) Stat. 13 Car. 2.

(u) Stat. 14 Car. 2.

casion of these Acts is to be considered, which was the unjust Deposing and Murdering a pious King, who had not broken the Contract, nor designed to alter either the Government or Religion; but was falsly accused of all these Crimes, and, contrary to Law and Reason, Tryed and Condemned, and finally, Executed by his own Subjects, as the Preface to the first of these Acts declare. Now, in this case, there was just Reason to secure the Persons of all future Kings, from the like impious Attempts. Yet,

Secondly, We own all this to be true now; for we do not pretend that any, or all the people have any coercive power over the Kings Person, to Imprison or Murder him: Nor do we allow people, on any pretence whatsoever, to take Arms against the King, or his Lawful Commissioned Officers. We permit the making use only of defensive Arms, to preserve the Rights of the Community, from being taken away by one who acts not as a King, and who imploys men without Lawful Commissions to carry on these Illegal Designs: And,

Thirdly, If we interpret these Laws absolutely, as forbidding to take, even defensive Arms, when our Rights are attempted to be totally subverted, and all the Conditions of the Contract broken; then this Law makes all other Laws void, and destroys the very Constitution of the Government, giving up all the Rights of the free people of *England* at once (since a Right which may not be claim'd or defended, is no Right, or however, of no Use); and therefore, if this were the sence of the Law, it would be null in it self, since the

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people never gave their Representatives power to give away their whole Rights, and alter the Antient Government; and it cannot be well supposed, it was their Intention to ruine themselves and their posterity, they must be tricked into it: The Friends of the Prerogative, say, (with some Truth) That no King can give away the Prerogative from his Successors, and that an Act of Parliament, made to that puopose, is null in it self: Even so we say of the Birth-rights of the people of *England*, no Parliament can give them away; if they were so foolish, or so wicked to intend it, the Law it self being against *Magna Charta*, and the Constitution of the Government would be null: But I only urge this, to shew the Absurdity of putting so forced and unnatural a Sense upon these Acts, which in a reasonable and unstrained Sense, I agree to be good and firm: And if we can prove our late King had actually forfeited his Power and Right to Govern, before any Arms were taken up, then this late Revolution is not concerned in that which these Laws forbid.

Secondly, Therefore we come to enquire, Whether the Late King *James* hath forfeited his Kingdom, or no; and certainly, if the Kingdom of *England* be capable of being forfeited, then he hath done all that was possible to make himself lyable to that Forfeiture; because it is plain, he sought to turn this mixt and limited Monarchy into an Absolute and Arbitrary Government, and resolved his own Will, and not the Law, should take place: Hence he set up an Illegal Court, in defyance of divers plain Statutes; and therein, without any formal

formal Proceſs, Tryal or Inqueſt, condemned Men to looſe their Freeholds. He Suſpended, Deprived, and Ejected ſome, and illegally put in others utterly uncapable by LAW into their Places; deſigning by this Engine, to have turned out all the *PROTESTANT CLERGY* (Allowed and Eſtabliſhed by Law) and put in *Papiſts* and Renegado's in their Rooms. Hence he took upon him to Diſpenſe with all the LAWS againſt *Papiſts* and *Diſſenters*, before any Parliament had Repealed them; and to turn out of all Places, Civil and Military, ſuch as would not conſent to aſſiſt him in this Uſurpation upon Law and common Right, placing Men utterly diſabled by Law, by illegal Commiſſions in all conſiderable Offices of Gain and Truſt. Hence he tried all the Judges, whether they would approve of this Diſpenſing Power; turning all ſuch out (tho' otherwiſe never ſo able in their Profeſſion) as honeſtly refuſed to flatter him in this attempt; and putting in Men, who had neither Law nor Conſcience, meerly for complying with his Diſpenſing Power, which he certainly knew, was againſt Law; but reſolved to try all of that Robe, till he could find ſome, impious enough, to ſay it was Law. Hence he kept up a Standing Army in times of Peace, and Countenanced their oppreſſing his Subjects in many Places; and made them Guard that illegal ſort of Worſhip, which he (contrary to innumerable unrepealed Acts of Parliament) Set up in all Great Cities and Towns; and hoped by this Army, to affright the People of *England*, from ſo much as complaining, when their Religion, Liberties, Properties and Rights, were ſo dangerouſly Invaded.

Invaded. Finally, in order to this Design, because nothing but a Parliament could effectually subvert the Government; and no Parliament fairly chosen, (as he knew) would consent to this; he took away Charters, put out all the antient Magistrates, and put in Tools, who promised to assist him in this project. He Closeted all who were like to stand for Parliament-Men, and made them be Examined before hand, Whether they would Vote the Ruin of their Country, and joyn with him in it, or no; if not, they were turned out, disgraced, and openly threatned, if they presumed to stand for to be Elected. So that by this means, he hoped to have a Parliament engaged before hand to betray the Rights of those whom they Represented; and when this would not prevail, he resolved to have no Parliament at all. This, without sifting into the secrets of the pretended Prince of *Wales*, or the private *French* League, is enough to convince all the World, That the late King resolved to alter the Form of our Government, and to Rule Arbitrarily; and that he had, over and over, broken his Coronation Oath, and all the Conditions on which he was admitted to Govern. That he took the ready way to deprive us and our Posterity of all our Rights and Liberties, and of all that Relief we could have by a *Free Parliament*, to have preserved or re-gained them: And withal, 'tis well known, there was no Truth nor Sincerity in his Promises; no Clemency in his Nature; no Inclinations to hearken to any Counsel, but such as flattered him in this way; and therefore he was utterly uncapable to Rule this Limited Monarchy; and had broken all the Conditions upon which

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he was admitted to it: So that there was no way to keep the Government upon its ancient Basis, and preserve the People from Slavery and Ruin; but for the other Estates to seize on the Government, and take the Forfeiture (which he had so many ways incurred) so soon as they had an Opportunity. And truly, he offered them a very fair occasion, when, rather than consent, in his lowest Ebb of Fortune, to Call a Parliament that might reduce him to his due Limits, and secure the peoples Rights; he suddenly, secretly, and voluntarily, chose to run away in a Disguise after his Queen, and others of his Evil-Councellors; leaving us without any Government at all; and by Disbanding his Forces, giving up all thoughts of returning again, till he could get such Foreign Aids, as might enable him to Conquer us by Force, and so make himself what he always desired to be; that is, Absolute, and Arbitrary. Now in this case, what can a Free-people in a Limited Monarchy do? If their Condition be not worse than the worst of Slaves, they must have Power to Defend themselves against such proceedings; when they have a Prince who neither will be Bound by Promises nor Oaths, who deliberately chooses to fly, rather than endure to stay and do them right; who will Govern absolutely, or not at all; who hath so little regard for them, that he seeks Foreign and Barbarous Assistances to destroy those he promised to Defend, and leaves them without any Government, exposed to the Will of a Conqueror. Can they do any less than disown him who deserts them? Can any Nation Subsist without Government? And have they not by the Law of Nature Power to seek

out a New Governour, who will Rule by Law, and Defend, as well as Secure their Rights; when the old one will either be at Liberty to destroy both Law and Right, or will not stay among them? We must either Grant this, or speak out and say, It is the Kings Prerogative to Destroy his people, and they are Bound by their Allegiance to assist him in doing this. But if this be unnatural, absurd, and contrary to the ends of Government; then this Prince hath Forfeited his Right to Rule, and lost all Claim to their Allegiance; and so they are free from the Obligation of that Oath which they took to him, on condition of his Ruling by Law, and Protecting them; which may convince all that are not obstinate or influenced by private Interest, that the Oath of Allegiance is by him made perfectly Null.

Now it being clear from the Premises, That *James* the Second, hath no longer Right to our Allegiance, this Monarchy being Hereditary, the Right devolved upon the next known Heir; yet, since there was a pretended Heir besides, it was convenient that the two other Estates Assembled, should declare, and recognize the true Heir; who being a Lady, and Married to one, who himself was of the Blood-Royal; and after her self, and Sister, was the next surviving Heir to this Crown: And also a Person who had merited so much from these two Sisters, and the Nation, by rescuing their Title, and our Liberties: He with the Consent of the Queen, in whom the Right of Succession was, and of the Princess *Anne*, who is the Heir presumptive, was joined in the Government, and Crowned with the Queen; and

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they are now *de Facto*, and *de Jure* both, King and Queen of this Nation: So that none can doubt but our Allegiance is due to them, who, beſides their Hereditary Right, have renewed the Antient Compact with us, and Sworn to keep it; and have been legally admitted by the general Conſent of the Nation, expreſſed by their Repreſentatives in a Convention, freely and fairly Choſen; and who never did, nor in probability, never will break this Compact; but will vigorouſly defend both our Religion, Liberties, and our Eſtates, from the foreign Force of that Perſecutor of *France*; and all that ſhall attempt to ſet up either a Tributary, or an Arbitrary Prince over us.

Licenſed and Entred.

FINIS.